
By: **Delegate Hubbard**

Introduced and read first time: February 11, 2004

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Money Follows the Individual Accountability Act**

3 FOR the purpose of requiring a nursing facility, under certain circumstances, to refer
4 a resident to the Department of Health and Mental Hygiene for assistance in
5 obtaining certain home- and community-based services; requiring the
6 Department to review certain quarterly assessments to identify individuals
7 indicating a preference to live in the community; requiring the Department to
8 provide residents referred or identified with certain information, including
9 certain rights, and with certain assistance, including assistance in moving from
10 a nursing facility to a certain community-based setting; requiring a social
11 worker to provide information regarding how to obtain certain services and
12 including a certain list; requiring certain information to be made available to a
13 resident at a certain time; altering the format for the information; repealing a
14 requirement for a social worker to provide a certain referral; repealing certain
15 requirements imposed on certain long-term care case managers; altering the
16 proof that certain employees or representatives may be required to provide;
17 requiring the Department to provide, on or before a certain date, a certain report
18 to the Governor and the General Assembly; repealing certain reporting
19 requirements; and generally relating to home- and community-based services
20 for residents of nursing facilities.

21 BY repealing and reenacting, with amendments,
22 Article - Health - General
23 Section 15-135
24 Annotated Code of Maryland
25 (2000 Replacement Volume and 2003 Supplement)

26 BY repealing
27 Chapter 303 of the Acts of the General Assembly of 2003
28 Section 3

29 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
30 MARYLAND, That the Laws of Maryland read as follows:

1

Article - Health - General

2 15-135.

3 (a) (1) In this section the following words have the meanings indicated.

4 (2) "Nursing facility" has the meaning stated in § 15-132(a)(10) of this
5 subtitle.6 (3) "Resident" means an individual receiving long-term care in a nursing
7 facility.8 (b) (1) A social worker shall provide to [a] EACH resident [a one-page]
9 information [sheet] that:10 (i) Explains the availability of services under home- or
11 community-based waiver programs in the State that could enable the resident to live
12 in the community;13 (ii) Explains that if the resident's care is partially or fully
14 reimbursed by the Program, the resident may be able to receive long-term care
15 services in the community instead of in the nursing facility;16 (iii) Provides information regarding [the referrals to residents that
17 may provide additional information,] HOW TO OBTAIN case management services[,]
18 or evaluation services related to home- and community-based waiver programs or
19 other options for receiving long-term care services in the community; [and]20 (iv) [Is] IF WRITTEN, IS in large, easily legible type and in formats
21 accessible to the resident; AND22 (V) INCLUDES A LIST OF LEGAL, ADVOCACY, AND GOVERNMENT
23 AGENCY RESOURCES.24 (2) The Department, in consultation with the State agencies that
25 implement the home- and community-based services programs, shall prepare,
26 distribute, and update as necessary the [one-page] information [sheet] required
27 under paragraph (1) of this subsection.28 (3) The [one-page] information [sheet] required under paragraph (1) of
29 this subsection shall be made available to the resident:

30 (i) Upon admission or discharge of the resident; and

31 (ii) [At least one time annually at the request of the resident]
32 WHEN THE RESIDENT INDICATES A PREFERENCE TO LIVE IN THE COMMUNITY,
33 EITHER DURING THE RESIDENT'S QUARTERLY ASSESSMENT OR AT ANY OTHER TIME.34 (4) The social worker shall request that the resident sign an
35 acknowledgment of receipt of the information [sheet] provided by the social worker
36 that shall be kept in the resident's medical record.

1 [(c) If a resident is unable to contact outside entities without assistance, or a
2 resident requests assistance, the social worker shall refer the resident to persons
3 from the Department that can provide information or case management services that
4 will enable the resident to learn about receiving long-term care services in the
5 community.

6 (d) The long-term care case manager at a local department of social services
7 shall:

8 (1) Provide assistance to residents and make referrals to persons that
9 may help in obtaining additional information, case management services, or
10 evaluation services related to Medical Assistance waiver programs or other options
11 for receiving long-term care services in the community;

12 (2) Provide the same information to the resident's health care
13 representative or legal guardian; and

14 (3) Ensure that a copy of the information provided is kept in a resident's
15 client file.

16 (e) When a resident indicates an interest in receiving long-term care services
17 in the community, the long-term care case manager at a local department of social
18 services shall refer the resident within 10 days to persons that will provide
19 information or case management services that will enable the resident to consider the
20 options that may be available and apply for benefits if the resident chooses.]

21 (C) IF A RESIDENT INDICATES AN INTEREST IN OR A PREFERENCE FOR LIVING
22 IN THE COMMUNITY, THE NURSING FACILITY SHALL REFER THE RESIDENT TO THE
23 DEPARTMENT FOR FURTHER ASSISTANCE.

24 (D) THE DEPARTMENT SHALL REVIEW THE QUARTERLY ASSESSMENTS
25 SUBMITTED TO THE CENTER FOR MEDICARE AND MEDICAID SERVICES OF THE U.S.
26 DEPARTMENT OF HEALTH AND HUMAN SERVICES BY EACH NURSING FACILITY THAT
27 PARTICIPATES IN THE PROGRAM TO IDENTIFY INDIVIDUALS INDICATING A
28 PREFERENCE TO LIVE IN THE COMMUNITY.

29 (E) THE DEPARTMENT SHALL PROVIDE RESIDENTS REFERRED OR
30 IDENTIFIED UNDER SUBSECTIONS (C) AND (D) OF THIS SECTION WITH:

31 (1) ADDITIONAL INFORMATION REGARDING HOME- AND
32 COMMUNITY-BASED SERVICES, INCLUDING SERVICES AVAILABLE UNDER A
33 MEDICAL ASSISTANCE WAIVER AND THEIR RIGHT TO ACCESS SERVICES UNDER §
34 15-137 OF THIS SUBTITLE; AND

35 (2) ASSISTANCE IN:

36 (I) COMPLETING ANY APPLICATION FORMS OR PROCESS, AS
37 NEEDED; AND

1 (II) MOVING FROM A NURSING FACILITY TO A COMMUNITY-BASED
2 SETTING APPROPRIATE TO THE RESIDENTS' NEEDS AND EXPRESSED WISHES.

3 (f) (1) Subject to paragraph (3) of this subsection, employees or
4 representatives of protection and advocacy agencies and of centers for independent
5 living shall have reasonable and unaccompanied access to residents of public or
6 private nursing facilities in the State that receive reimbursement under the Program
7 for the purpose of providing information, training, and referral to programs and
8 services addressing the needs of people with disabilities, including participation in
9 programs that would enable individuals with disabilities to live outside the nursing
10 facility.

11 (2) Employees or representatives of protection and advocacy agencies
12 and of centers for independent living shall maintain the confidentiality of the
13 residents and may not disclose the information provided to a resident, except with the
14 express consent of the resident or the resident's legal guardian or health care
15 representative.

16 (3) Public or private nursing facilities may require the employees or
17 representatives of protection and advocacy agencies and of centers for independent
18 living to provide proof of their employment [and training] before authorizing the
19 access required under paragraph (1) of this subsection.

20 (G) ON OR BEFORE JANUARY 1 OF EACH YEAR, THE DEPARTMENT SHALL
21 REPORT TO THE GOVERNOR AND THE GENERAL ASSEMBLY, IN ACCORDANCE WITH §
22 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON:

23 (1) THE DEPARTMENT'S EFFORTS TO PROMOTE HOME- AND
24 COMMUNITY-BASED SERVICES;

25 (2) THE NUMBER OF NURSING FACILITY RESIDENTS REFERRED OR
26 IDENTIFIED UNDER SUBSECTIONS (C) AND (D) OF THIS SECTION IN THE PREVIOUS
27 YEAR;

28 (3) THE NUMBER OF NURSING FACILITY RESIDENTS WHO
29 TRANSITIONED FROM NURSING FACILITIES TO HOME- AND COMMUNITY-BASED
30 WAIVER SERVICES;

31 (4) ANY OBSTACLES THE DEPARTMENT CONFRONTED IN ASSISTING
32 NURSING HOME RESIDENTS TO MAKE THE TRANSITION FROM A NURSING FACILITY
33 TO A COMMUNITY-BASED RESIDENCE; AND

34 (5) THE DEPARTMENT'S RECOMMENDATIONS FOR REMOVING THE
35 OBSTACLES.

36

Chapter 303 of the Acts of 2003

37 [SECTION 3. AND BE IT FURTHER ENACTED, That on or before January 1
38 of each year, the Secretary of Health and Mental Hygiene shall submit a report to the

1 General Assembly, in accordance with § 2-1246 of the State Government Article, and
2 to the Department of Legislative Services on:

3 (1) State efforts to promote home- and community-based services under this
4 Act; and

5 (2) the number of individuals who have transitioned from nursing homes to
6 home- and community-based waiver services.]

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 July 1, 2004.